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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

REGINA SANCHEZ, individually and) Case No.
on behalf of all others similarly situated,)

Plaintiff,

vs.

RECEIVABLES PERFORMANCE)
MANAGEMENT, LLC,)
Defendant.)

CLASS ACTION

**COMPLAINT FOR VIOLATIONS
OF:**

1. NEGLIGENT VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]
2. WILLFUL VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET
SEQ.]

DEMAND FOR JURY TRIAL

1 Plaintiff Regina Sanchez ("Plaintiff"), individually and on behalf of all
2 others similarly situated, alleges the following upon information and belief based
3 upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff's Class Action Complaint is brought pursuant to the
6 Telephone Consumer Protection Act, 47 U.S.C. 227 et seq. ("TCPA").

7 2. Plaintiff, individually, and on behalf of all others similarly situated,
8 brings this Complaint for damages, injunctive relief, and any other available legal
9 or equitable remedies, resulting from the illegal actions of Defendant in
10 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff's cellular
11 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon
12 personal knowledge as to himself and his own acts and experiences, and, as to all
13 other matters, upon information and belief, including investigation conducted by
14 his attorneys.

15 **JURISDICTION & VENUE**

16 3. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
17 a resident of California, seeks relief on behalf of a Class, which will result in at
18 least one class member belonging to a different state than that of Defendant, a
19 company with its principal place of business and State of Incorporation in
20 Washington. Plaintiff also seeks up to \$1,500.00 in damages for each call in
21 violation of the TCPA, which, when aggregated among a proposed class in the
22 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
23 Therefore, both diversity jurisdiction and the damages threshold under the Class
24 Action Fairness Act of 2005 ("CAFA") are present, and this Court has
25 jurisdiction.

26 4. Venue is proper in the United States District Court for the Central
27 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
28

1 because Defendant does business within the County of San Bernardino, within the
2 State of California and the Central District of California.

3 **PARTIES**

4 5. Plaintiff, Regina Sanchez (“Plaintiff”), is a natural person residing in
5 Rancho Cucamonga, California, is a “person” as defined by *47 U.S.C. § 153 (10)*,
6 and is a “debtor” as defined by Cal Civ Code §1788.2(h).

7 6. Defendant, Receivables Performance Management, LLC
8 (“Defendant”), is in the business of consumer debt buying and recovery/collection
9 and is a “person” as defined by *47 U.S.C. § 153 (10)*.

10 **FACTUAL ALLEGATIONS**

11 7. Beginning on or around March of 2015, Defendant contacted
12 Plaintiff on her cellular telephone number ending in -7591 in an attempt to collect
13 an alleged outstanding debt.

14 8. Defendant used an “automatic telephone dialing system”, as defined
15 by *47 U.S.C. § 227(a)(1)* to place its telephone calls to Plaintiff seeking to collect
16 the debt allegedly owed.

17 9. Defendant’s calls constituted calls that were not for emergency
18 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

19 10. Defendant’s calls were placed to telephone number assigned to a
20 cellular telephone service for which Plaintiff incurs a charge for incoming calls
21 pursuant to *47 U.S.C. § 227(b)(1)*.

22 11. Plaintiff orally revoked any and all consent to be contacted using an
23 automatic telephone dialing system, to the extent any existed. Accordingly,
24 Defendant never received Plaintiff’s “prior express consent” to receive calls using
25 an automatic telephone dialing system or an artificial or prerecorded voice on her
26 cellular telephone pursuant to *47 U.S.C. § 227(b)(1)(A)*.

27 **CLASS ALLEGATIONS**

28 12. Plaintiff brings this action individually and on behalf of all others

1 similarly situated, as a member of the proposed class (hereafter “The Class”)
2 defined as follows:

3 All persons within the United States who received any
4 collection telephone calls from Defendant to said
5 person’s cellular telephone made through the use of any
6 automatic telephone dialing system or an artificial or
7 prerecorded voice and such person had not previously
8 consented to receiving such calls within the four years
prior to the filing of this Complaint

9 13. Plaintiff represents, and is a member of, The Class, consisting of All
10 persons within the United States who received any collection telephone calls from
11 Defendant to said person’s cellular telephone made through the use of any
12 automatic telephone dialing system or an artificial or prerecorded voice and such
13 person had not previously not provided their cellular telephone number to
14 Defendant within the four years prior to the filing of this Complaint.

15 14. Defendant, its employees and agents are excluded from The Class.
16 Plaintiff does not know the number of members in The Class, but believes the
17 Class members number in the thousands, if not more. Thus, this matter should be
18 certified as a Class Action to assist in the expeditious litigation of the matter.

19 15. The Class is so numerous that the individual joinder of all of its
20 members is impractical. While the exact number and identities of The Class
21 members are unknown to Plaintiff at this time and can only be ascertained
22 through appropriate discovery, Plaintiff is informed and believes and thereon
23 alleges that The Class includes thousands of members. Plaintiff alleges that The
24 Class members may be ascertained by the records maintained by Defendant.

25 16. Plaintiff and members of The Class were harmed by the acts of
26 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
27 and Class members via their cellular telephones thereby causing Plaintiff and
28 Class members to incur certain charges or reduced telephone time for which

1 Plaintiff and Class members had previously paid by having to retrieve or
2 administer messages left by Defendant during those illegal calls, and invading the
3 privacy of said Plaintiff and Class members.

4 17. Common questions of fact and law exist as to all members of The
5 Class which predominate over any questions affecting only individual members
6 of The Class. These common legal and factual questions, which do not vary
7 between Class members, and which may be determined without reference to the
8 individual circumstances of any Class members, include, but are not limited to,
9 the following:

- 10 a. Whether, within the four years prior to the filing of this
11 Complaint, Defendant made any debt-collection call (other
12 than a call made for emergency purposes or made with the
13 prior express consent of the called party) to a Class member
14 using any automatic telephone dialing system or any artificial
15 or prerecorded voice to any telephone number assigned to a
16 cellular telephone service;
- 17 b. Whether Plaintiff and the Class members were damages
18 thereby, and the extent of damages for such violation; and
- 19 c. Whether Defendant should be enjoined from engaging in such
20 conduct in the future.

21 18. As a person that received numerous collection calls from Defendant
22 using an automatic telephone dialing system or an artificial or prerecorded voice,
23 without Plaintiff's prior express consent, Plaintiff is asserting claims that are
24 typical of The Class.

25 19. Plaintiff will fairly and adequately protect the interests of the
26 members of The Class. Plaintiff has retained attorneys experienced in the
27 prosecution of class actions.

28 20. A class action is superior to other available methods of fair and

1 efficient adjudication of this controversy, since individual litigation of the claims
 2 of all Class members is impracticable. Even if every Class member could afford
 3 individual litigation, the court system could not. It would be unduly burdensome
 4 to the courts in which individual litigation of numerous issues would proceed.
 5 Individualized litigation would also present the potential for varying, inconsistent,
 6 or contradictory judgments and would magnify the delay and expense to all
 7 parties and to the court system resulting from multiple trials of the same complex
 8 factual issues. By contrast, the conduct of this action as a class action presents
 9 fewer management difficulties, conserves the resources of the parties and of the
 10 court system, and protects the rights of each Class member.

11 21. The prosecution of separate actions by individual Class members
 12 would create a risk of adjudications with respect to them that would, as a practical
 13 matter, be dispositive of the interests of the other Class members not parties to
 14 such adjudications or that would substantially impair or impede the ability of such
 15 non-party Class members to protect their interests.

16 22. Defendant has acted or refused to act in respects generally applicable
 17 to The Class, thereby making appropriate final and injunctive relief with regard to
 18 the members of the California Class as a whole.

19 **FIRST CAUSE OF ACTION**

20 **Negligent Violations of the Telephone Consumer Protection Act**

21 **47 U.S.C. §227 et seq.**

22 23. Plaintiff repeats and incorporates by reference into this cause of
 23 action the allegations set forth above at Paragraphs 1-22.

24 24. The foregoing acts and omissions of Defendant constitute numerous
 25 and multiple negligent violations of the TCPA, including but not limited to each
 26 and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

27 25. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et
 28 seq., Plaintiff and the Class Members are entitled an award of \$500.00 in

1 statutory damages, for each and every violation, pursuant to 47 U.S.C. §
2 227(b)(3)(B).

3 26. Plaintiff and the Class members are also entitled to and seek
4 injunctive relief prohibiting such conduct in the future.

5 **SECOND CAUSE OF ACTION**

6 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
7 **Act**

8 **47 U.S.C. §227 et seq.**

9 27. Plaintiff repeats and incorporates by reference into this cause of
10 action the allegations set forth above at Paragraphs 1-26.

11 28. The foregoing acts and omissions of Defendant constitute numerous
12 and multiple knowing and/or willful violations of the TCPA, including but not
13 limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et*
14 *seq.*

15 29. As a result of Defendant's knowing and/or willful violations of 47
16 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of
17 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47
18 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

19 30. Plaintiff and the Class members are also entitled to and seek
20 injunctive relief prohibiting such conduct in the future.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

23 **FIRST CAUSE OF ACTION**

24 **Negligent Violations of the Telephone Consumer Protection Act**

25 **47 U.S.C. §227 et seq.**

- 26 • As a result of Defendant's negligent violations of 47 U.S.C.
27 §227(b)(1), Plaintiff and the Class members are entitled to and
28 request \$500 in statutory damages, for each and every violation,

pursuant to 47 U.S.C. 227(b)(3)(B).

- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

36. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully Submitted this 8th day of August, 2015.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff